

**IN THE UNITED STATES DISTRICT COURT
FOR THE MIDDLE DISTRICT OF PENNSYLVANIA**

RITE AID HDQTRS CORP.

Plaintiffs,

v.

IMAGE BY J&K, LLC and
NATIONWIDE MUTUAL INSURANCE
COMPANY

Defendants,

No.

NOTICE OF REMOVAL

Pursuant to U.S.C §§1332, 1441(a) and 1446, Defendant, Nationwide Mutual Insurance Company files this Notice of Removal of this case from the Court of Common Pleas of Philadelphia County, Pennsylvania to the United States District Court for the Middle District of Pennsylvania. In support of this Notice of Removal, Defendant states as follows:

CASE BACKGROUND AND FOUNDATION FOR REMOVAL

1. On or about May 6, 2019, Plaintiff commenced an action in the Court of Common Pleas of Philadelphia County, Pennsylvania against Defendant bearing filing identification number 190500100 ("State Court Action"). Plaintiff's Complaint ("Complaint") seeks damages for Breach of Contract and Bad Faith. The Complaint and Entry of Appearance for Defendant, Nationwide Mutual Insurance Company, copies of which are attached as Exhibit "A" and "B" respectively, are the only pleadings served and filed in the State Court Action.

2. The Complaint has not been served on Defendant, Nationwide Mutual Insurance Company.

3. This Court has original jurisdiction over this matter pursuant to 28 U.S.C. §1332. Further, this matter is one that may be removed to this Court pursuant to 28 U.S.C. §1441 because it is a civil action that is between citizens of different states and in which the amount in controversy of the claims of the Plaintiff exceed \$75,000.00, exclusive of interest and costs.

4. Venue is proper in this Court because the State Court Action is pending in Philadelphia County, Pennsylvania. See 28 U.S.C. §1441(a).

COMPLETE DIVERSITY OF CITIZENSHIP

5. There is a complete diversity of citizenship between the parties.

(a) **Plaintiff.** Plaintiff is a citizen of Pennsylvania. See Complaint, ¶1.

(b) **Defendant 2, Nationwide Mutual Insurance Company.** The Complaint improperly names the Defendant as “Nationwide Insurance”. The State of Incorporation and the Principal Place of Business of the Defendant is Ohio as set forth in the Complaint. See Complaint, ¶5.

(c) **Defendant 1, Image By J&K, LLC.** Defendant Image By J&K, LLC is a citizen of Maryland. See Complaint, ¶3.

6. The Complaint alleges damages in excess of \$50,000.00. The Plaintiff also claims attorney’s fees and punitive damages in unspecified amounts.

7. No Defendant is domiciled in Pennsylvania.

8. Given the complete diversity of the real parties and an amount in the controversy in excess of \$75,000, this Court has jurisdiction over the cause of action and claims asserted in the State Court Action pursuant to 28 U.S.C. §1332, and this action is properly removable pursuant to 28 U.S.C. §1441 and 1446.

9. This Notice of Removal has been served on Plaintiff’s attorney and the Co-Defendant. The certificate of service is attached hereto. A Notice of Filing of Notice of Removal to Federal Court (attached Exhibit “C”) will be filed in the Court of Common Pleas of Philadelphia County, Pennsylvania immediately after the filing of this Notice.

CONCLUSION

Because Plaintiff and Defendants are citizens of different states and the amount controversy exceeds \$75,000, this Court has jurisdiction over Plaintiff’s claims pursuant to 28 U.S.C. §1332. Defendant, Nationwide Mutual Insurance Company is therefore entitled to remove this case to this Court pursuant to 28 U.S.C. §1441 and 1446.

Wherefore, Defendant, Nationwide Mutual Insurance Company requests that the action now pending before the Court of Common Pleas of Philadelphia County, Pennsylvania be removed to this Court.

Respectfully submitted,

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